

December 15, 2025

Via Electronic Filing And Federal Express Service

Jarrett B. Perlow, Clerk of Court
United States Court of Appeals Federal Circuit
717 Madison Place, NW
Washington, DC 20439

RE: *Applied Predictive Technologies, Inc. (“APT”) v. MarketDial, Inc. et al.*
(“Defendants”)
Case No.: 24-1751 Notice of Supplemental Authority

Dear Mr. Perlow:

Pursuant to Fed.R.App.P. 28(j), Plaintiff-Appellant APT responds to Defendants’ letter dated December 12, 2025 (Dkt.107) citing *Coda Dev. s.r.o v. Goodyear Tire & Rubber Co.*, 2025 WL 3511035 (Fed. Cir. Dec. 8, 2025). *Coda* is factually distinguishable, but its procedural history supports reversal here.

Coda’s procedural posture helps APT because the district court there permitted plaintiff to try its trade secret claim despite doubting its viability. This Court had previously vacated the district court’s dismissal of *Coda*’s trade secret claim as being time-barred. *See Coda Dev. s.r.o v. Goodyear Tire & Rubber Co.*, 916 F.3d 1350 (Fed. Cir. 2019). On remand, Goodyear answered *Coda*’s amended complaint and the parties conducted discovery. The District Court then denied Defendant’s summary judgment motion. *See Coda Dev. s.r.o. v. Goodyear Tire & Rubber Co.*, 667 F. Supp.3d 590, 598 (N.D. Ohio 2023). Despite expressing “grave concerns” about plaintiff’s trade secret claims *id.* at 599, it permitted trial. It only granted JMOL after the jury found for plaintiff. Here, the District Court granted Defendants summary judgment on APT’s trade secret claims and held no trial.

Coda is substantively distinguishable. This Court upheld that Goodyear had not used *Coda*’s alleged secrets. 2025 WL 3511035, at **5-6. Here, forensic evidence shows MarketDial used APT’s Partner Capabilities Briefing (“PCB”) to create materials and APT’s Standard Deployment Guide (“SDG”) for a client presentation. (Appx5687-88). MarketDial solicited APT’s Customized Feeds from APT’s clients to create knockoffs. (Appx7311; Appx7353-54; Appx7374).

Coda held that several alleged secrets lacked particularity or specificity. 2025 WL 3511035, at **4-5 (applying Ohio law). Here, Utah law does not require particularity. *See USA Power, LLC v. PacifiCorp.*, 372 P.3d 629, 649 (Utah 1999).

Coda further held that certain alleged secrets lacked definiteness. 2025 WL 3511035, at **5-6. Here, the PCB and SDG are discrete slide decks that Defendants misused. *See* Appx3725-31; Appx6432-97. Again, Defendants induced APT clients to send them APT's work.

Unlike in *Coda*, APT's experts fleshed out each secret. (*See* Appx5069-82; Appx5233-36; Appx5277-5315; Appx5543-67).

Unlike here, the district court noted that *Coda* had no compilation before the lawsuit. 667 F. Supp.2d at 601, n.12.

Sincerely,



David B. Goroff

DBG:kc

cc: Keith A. Call (keithcall@spencerfane.com)
Rodney Parker (rparker@spencerfane.com)
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**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT****CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATIONS****Case Number:** 2024-1751**Short Case Caption:** APPLIED PREDICTIVE TECHNOLOGIES, INC. v. MARKETDIAL, INC., et al.**Instructions:** When computing a word, line, or page count, you may exclude any items listed as exempted under Fed. R. App. P. 5(c), Fed. R. App. P. 21(d), Fed. R. App. P. 27(d)(2), Fed. R. App. P. 32(f), or Fed. Cir. R. 32(b)(2).

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Date: 12/15/2025Signature: /s/ David B. GoroffName: David B. Goroff

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

CERTIFICATE OF SERVICE

Case Number 2024-1751

Short Case Caption Applied Predictive v. Marketdial, Inc., et al

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☐ Additional pages attached.

Date: 12/15/2025

Signature: /s/David B. Goroff

Name: David B. Goroff